

Message Text

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PAGE 01 TEGUCI 03592 162244Z

61

ACTION ARA-10

INFO OCT-01 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00 SP-02

AID-05 EB-07 NSC-05 CIEP-01 TRSE-00 SS-15 STR-04

OMB-01 CEA-01 AGR-05 CIAE-00 COME-00 INR-07 LAB-04

NSAE-00 FRB-03 OPIC-03 L-03 H-02 DODE-00 PA-01 PRS-01

IO-10 /091 W

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O R 161934Z AUG 75

FM AMEMBASSY TEGUCIGALPA

TO SECSTATE WASHDC NIACT IMMEDIATE 0000

INFO AMEMBASSY BOGOTA

AMEMBASSY GUATEMALA

AMEMBASSY MANAGUA

AMEMBASSY PANAMA

AMEMBASSY QUITO

AMEMBASSY SAN JOSE

AMEMBASSY SAN SALVADOR

C O N F I D E N T I A L TEGUCIGALPA 3592

E.O. 11652: GDS

TAGS: EINV, EAGR, HO

SUBJECT: AGR: HONDURAN BANANA POLICY SPEECH (THIRD REPORT OF THREE)

REF: TEGUCIGALPA 3001

COMMENT:

1. THE MELGAR SPEECH ADOPTS THE RECOMMENDATIONS OF THE BANANA COMMISSION REPORT IN MAJOR RESPECTS. IT ADDS THE DECISION OF AN EFFECTIVE DATE OF SEPTEMBER 15. THE SPEECH WAS PREPARED BY MINISTERS AND OTHER OFFICIALS RESPONSIBLE FOR THE SUBJECT, WITH THE OBJECTIVE OF MINIMIZING ADVERSE INTERNATIONAL REACTIONS. FOR THE MOST PART, THERE APPEARS TO HAVE

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 TEGUCI 03592 162244Z

BEEN A DELIBERATE EFFORT, WITHIN THE CONSTRAINTS IMPOSED

BY LOCAL POLITICAL CONSIDERATIONS, TO AVOID ANTAGONIZING THE USG OR CORPORATE OR INTERNATIONAL INVESTOR OPINION. WE BELIEVE THE STRONGEST ADVOCATE OF A CONTINUED PRODUCTIVE RELATIONSHIP BETWEEN THE COMPANIES AND THE GOVERNMENT HAD A DETERMINING ROLE IN THE PREPARATION OF THE SPEECH. THIS IS IMPORTANT WHEN CONSIDERING A RESPONSE AND ITS EFFECT UPON THE FUTRE SUPPORT WHICH THE COMPANIES MAY HAVE FROM THOSE PERSONS. THERE ARE HAWKS ON BOTH SIDES WITH SPECIFIC POLITICAL AMBITIONS WHO WOULD LIKE TO UNDERMINE THE MODERATES ON AN ISSUE OF SUCH INTENSE LOCAL INTEREST.

2. IN CONTRAST, DECREE 253 ITSELF WAS DRAFTED IN TERMS FAR MORE ANTOGONISTIC AND NATIONALISTIC. IN BOTH SPECIFIC CONTENT AND SPIRIT IT IS OBVIOUSLY HOSTILE TO THE CONCEPT OF CONTINUED OPERATION OF THE COMPANIES IN HONDURAS. THE COMPANIES WILL OBVIOUSLY BE DISTURBED BY THE INACCURACIES AND DEMOGOGIC LANGUAGE OF THE DECREE, WHICH WE SUSPECT WAS DRAFTED BY THE COMMUNIST-LINING ATTORNEY GENERAL.

3. SUBSTANTIVELY, HOWEVER, THE COMPANIES MUST NOW DECIDE UPON A RESPONSE TO THE ABRRIATION OF THEIR CONCESSIONS AND NOT THE ILLOGIC THAT SUPPORTED THE DECISION. THEY MUST DECIDE UPON A COURSE OF LEGAL CONTEST OR ADAPTATION. THE OBVIOUS DIFFICULTY IN DOING SO WITHIN THE ONE MONTH TIME FRAME APPEARS NOT TO HAVE BEEN A CONCERN TO THE GOH.

4. THE SPEECH MAKES A VIRTUE OF THE GOH'S DECISION HAVING BEEN MADE WITHOUT PRIOR DISCUSSIONS WITH THE COMPANIES. THIS MAY HAVE BEEN CONSIDERED NECESSARY FROM THE POINT OF VIEW OF INTERNAL POLITICS, ESPECIALLY BECAUSE OF THE BRIBERY CASE. HOWEVER, IT IMPOSES A ONE-SIDEDNESS TO THE DECISION-MAKING PROCESS WHICH PRECLUDES COOPERATIVE CONSULTATION, IN THIS CASE, WITH EITHER THE EMBASSY OR THE COMPANIES, EXCEPT ON AN EX POST FACTO BASIS. IT MAY BE ARGUED ON THE OTHER HAND THAT PRIOR CONSULTATIONS OF THIS TYPE COULD HAVE RESULTED IN A LESS MODERATE GOH POSITION BECAUSE SUCH

CONFIDENTIAL

PAGE 03 TEGUCI 03592 162244Z

ANALYTICAL DEBATES WITH THE COMPANIES MIGHT WELL HAVE SHARPENED THEIR DIFFERENCES ON ISSUES WHERE THEIR INTERESTS DIVERGED. THE EMBASSY DOUBTS THAT IT WOULD HAVE BEEN REALISTIC TO EXPECT ANY LESS DRASTIC ACTION BY THE GOH IN THE CIRCUMSTANCES, BUT THE LEGALITY OF THE CANCELLATION OF THE CONCESSIONS MAY BE SUBJECT TO CONTEST.

5. WE BELIEVE IT EXCEPTIONALLY IMPORTANT THAT ACTIONS NOT BE TAKEN WHICH MIGHT WEAKEN THE ESSENTIALLY PRO-FOREIGN INVESTMENT MEMBERS OF THE GOVERNMENT. WE CONSIDER THEIR POSITION AS TENUOUS AND VULNERABLE; THE ALTERNATIVE IS A SLIDE TOWARDS FURTHER DEMAGOGUERY AND A MORE SELF-DESTRUCTIVE POSITION THAN THAT ALREADY TAKEN, WITH US INTERESTS SUFFERING ACCORDINGLY.

6. ALTHOUGH RESPONSIVE TO THE CONDITIONS THAT LED TO THE NAMING OF THE BANANA COMMISSION AND ITS REPORT, THE UNDERLYING MOTIVATION FOR THE NEW POLICY SEEMS TO BE SUPPORT OF THE AGRARIAN REFORM LAW. THIS LAW PROVIDES FOR COMPENSATED EXPROPRIATION. WE BELIEVE THE COMPANIES ALREADY HAVE TAKEN INTO ACCOUNT THE ACTIONS AGAINST THEM POSSIBLE UNDER THE AGRARIAN REFORM LAW.

7. THE COMPANIES' REACTIONS WILL BE TO PROTECT SHAREHOLDER INTERESTS. WITHOUT THEIR CONCESSIONS, THE COMPANIES ARE LIKELY TO REGARD THEMSELVES AS MORE VULNERABLE TO CAPRICIOUS CHANGES IN THEIR OPERATING CONDITIONS, PARTICULARLY UNDER FUTURE GOVERNMENTS. HOWEVER, THE COMPANIES WILL HAVE TO CHOOSE THEIR COURSE OF ACTION VERY CAREFULLY IF THEIR EFFORTS ARE NOT TO BE COUNTERPRODUCTIVE LOCALLY.

8. WE WONDER ALOUD IF ADVANTAGE COULD BE OBTAINED WERE THE COMPANIES PERMITTED TO COORDINATE THEIR RESPONSES TO THE GOH AND THUS AVOID THE DISADVANTAGEOUS SEPARATION THAT OCCURRED DURING THE BANANA EXPORT TAX EXERCISE LAST YEAR.

9. THE FOLLOWING PRESS GUIDANCE HAS BEEN PREPARED FOR LOCAL USE UNTIL MORE SPECIFIC RESPONSE IS POSSIBLE TO THE FLOOD OF INQUIRIES FROM THE MEDIA:
CONFIDENTIAL

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PAGE 04 TEGUCI 03592 162244Z

II. PRESS GUIDANCE - TO BE GIVEN OUT ONLY IF APPROACHED BY PRESS:

(A) TO DATE THE US MISSION IN HONDURAS HAS NOT BEEN APPROACHED BY THE US COMPANIES AFFECTED.

(B) CONSEQUENTLY AT THIS MOMENT WE DO NOT KNOW THE REACTION OF THE COMPANIES TO DECREE 253.

(C) THIS ACTION BY THE GOH WILL NEED TO BE ANALYSED BY THE CONCERNED OFFICIALS OF THE US GOVERNMENT IN WASHINGTON AS TO ITS CONSISTENCY WITH THE APPLICABLE PRINCIPLES OF INTERNATIONAL LAW GOVERNING PRIVATE FOREIGN INVESTMENT.

(D) SHOULD AN OFFICIAL US GOVERNMENT POSITION REGARDING THE EFFECT OF DECREE 253 BE ANNOUNCED, THE

GOH AND THE MEDIA WILL BE INFORMED.
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